
Name

Prison Number

Place of Confinement

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS

_____, Petitioner
(Full Name)

v.

_____, Respondent
(Name of Warden, Superintendent,
jailor or authorized person hav-
ing custody of petitioner)

and

The Attorney General of the State
of _____, Additional
Respondent

CASE NO. _____

(To be supplied
by the Clerk)

PETITION FOR A WRIT OF
HABEAS CORPUS PURSUANT
TO 28 U.S.C. § 2254 BY A
PERSON IN STATE CUSTODY

NOTE: If petitioner is attacking a judgment which imposed a sentence to be served in the future, petitioner must fill in the name of the state where the judgment of conviction was entered. If the petitioner has a sentence to be served in the future under a federal judgment which he wishes to attack, he should file a motion under 28 U.S.C. § 2255, in the federal court which entered the judgment.

- 1) Name and location of the court which entered the judgment of conviction under attack _____
- 2) Date judgment of conviction was entered _____
- 3) Case number _____
- 4) Length and terms of sentence _____

5) Are you presently serving a sentence imposed for a conviction other than the conviction under attack in this motion?
Yes ☐ No ☐

6) Nature of the offense involved (all counts) _____

7) What was your plea? (check one)
a) Not Guilty ☐ b) Guilty ☐ c) Nolo Contendere ☐

If you entered a guilty plea to one count or indictment, and a not guilty plea to another count or indictment, give details: _____

8) If you entered a plea of guilty pursuant to a plea bargain, state the terms and conditions of the agreement _____

9) Kind of trial (check one)
a) A jury ☐ b) A judge without a jury ☐

10) Did you testify at trial (if any)? Yes ☐ No ☐

11) Did you appeal from the judgment of conviction? Yes ☐ No ☐

12) If you did appeal, state the name and location of the court where the appeal was filed, the result, the case number and the date of the court's decision (or attach a copy of the court's opinion or order) _____

13) If you did not appeal, explain briefly why you did not _____

a) Did you seek permission to file a late appeal? Yes ☐
No ☐

14) Other than a direct appeal from the judgment of conviction and sentence, have you previously filed any petitions, applications, or motions with respect to this judgment in any court, state or federal? Yes ☐ No ☐

15) If your answer to 14 was "Yes", give the following information:

a) First petition, application or motion.

1) Name of court _____

2) Nature of proceeding _____

3) Grounds raised _____

4) Did you receive an evidentiary hearing on your petition, application or motion? Yes ☐ No ☐

5) Result _____

6) Date of result _____

7) Did you appeal the result to the highest state court

having jurisdiction? Yes ☐ No ☐. If you did appeal, give the name of the court where the appeal was filed, the result, the case number, citation and date of the court's decision (or attach a copy of the court's opinion or order) _____

8) If you did not appeal, briefly explain why you did not _____

b) As to any second petition, application or motion, give the following information:

1) Name of court _____

2) Nature of proceeding _____

3) Grounds raised _____

4) Did you receive an evidentiary hearing on your petition, application or motion? Yes ☐ No ☐

5) Result _____

6) Date of result _____

7) Did you appeal the result to the highest state court having jurisdiction? Yes ☐ No ☐. If you did appeal, give the name of the court where the appeal was filed, the result, the case number, citation and date of the court's decision (or attach a copy of the court's opinion or order) _____

8) If you did not appeal, briefly explain why you did not _____

c) As to any third petition, application or motion, give the following information:

1) Name of court _____

2) Nature of proceeding _____

3) Grounds raised _____

4) Did you receive an evidentiary hearing on your petition, application or motion? Yes ☐ No ☐

5) Result _____

6) Date of result _____

7) Did you appeal the result to the highest state court having jurisdiction? Yes ☐ No ☐. If you did appeal, give the name of the court where the appeal was filed, the result, the case number, citation and date of the court's decision (or attach a copy of the court's opinion or order) _____

8) If you did not appeal, briefly explain why you did not

- 16) State *concisely* every ground on which you claim that you are being unlawfully held. Summarize *briefly* the facts supporting each ground. If necessary, you may attach up to two extra pages stating additional grounds or supporting facts. You should raise in this petition all available grounds for relief which relate to the conviction under attack.

CAUTION

Before proceeding in a federal court, you are required to exhaust the remedies available to you in the state courts as to each ground on which you request action by the federal court.

A) (1) Ground One: _____

(2) Supporting Facts: (Without citing legal authority or argument state briefly the facts which support your claim)

(3) Statement of Exhaustion of State Remedies as to
Ground One:

Direct Appeal

(a) If you appealed from the judgment of conviction
did you raise this issue? Yes ☐ No ☐

(b) If you did not raise this issue in your direct
appeal, explain briefly why you did not _____

Post-Conviction Proceedings

(c) Did you raise this issue by means of a post-
conviction motion or petition for habeas corpus in a
state trial court? Yes ☐ No ☐

(d) If your answer to (c) is "Yes", state the type
of motion or petition, the name and location of the
court where the motion or petition was filed, the case
number (if known), the result and the date of the
court's decision _____

(e) Did you receive an evidentiary hearing on your
motion or petition? Yes ☐ No ☐

(f) Did you appeal from the denial of your motion or
petition? Yes ☐ No ☐

(g) If your answer to (f) is "Yes", state whether
this issue was raised in the appeal, Yes ☐ No ☐,
and state the name and location of the court where
the appeal was filed, the case number and the date of
the court's decision (or attach a copy of the court's
opinion or order) _____

(h) If your answer to questions (e), (f) or (g) is "No", briefly explain _____

Other Remedies

(i) Describe all other procedures (such as habeas corpus in the state supreme court, administrative remedies, etc.) you have used to exhaust your state remedies as to the issue _____

B)(1) Ground Two: _____

(2) Supporting Facts: (Without citing legal authority or argument state briefly the facts which support your claim)

(3) Statement of Exhaustion of State Remedies as to
Ground Two:

Direct Appeal

(a) If you appealed from the judgment of conviction
did you raise this issue? Yes ☐ No ☐

(b) If you did not raise this issue in your direct
appeal, explain briefly why you did not _____

Post-Conviction Proceedings

(c) Did you raise this issue by means of a post-
conviction motion or petition for habeas corpus in a
state trial court? Yes ☐ No ☐

(d) If your answer to (c) is "Yes", state the type
of motion or petition, the name and location of the
court where the motion or petition was filed, the re-
sult and date of the court's decision _____

(e) Did you receive an evidentiary hearing on your
motion or petition? Yes ☐ No ☐

(f) Did you appeal from the denial of your motion or
petition? Yes ☐ No ☐

(g) If your answer to (f) is "Yes", state whether
this issue was raised in the appeal, Yes ☐ No ☐,
and state the name and location of the court where
the appeal was filed, the case number and the date of
the court's decision (or attach a copy of the court's
opinion or order) _____

(h) If your answer to questions (e), (f) or (g) is "No", briefly explain _____

Other Remedies

(i) Describe all other procedures (such as habeas corpus in the state supreme court, administrative remedies, etc.) you have used to exhaust your state remedies as to the issue _____

C)(1) Ground Three: _____

(2) Supporting Facts: (Without citing legal authority or argument state briefly the facts which support your claim)

(3) Statement of Exhaustion of State Remedies as to Ground Three:

Direct Appeal

(a) If you appealed from the judgment of conviction did you raise this issue? Yes ☐ No ☐

(b) If you did not raise this issue in your direct appeal, explain briefly why you did not _____

Post-Conviction Proceedings

(c) Did you raise this issue by means of a post-conviction motion or petition for habeas corpus in a state trial court? Yes ☐ No ☐

(d) If your answer to (c) is "Yes", state the type of motion or petition, the name and location of the court where the motion or petition was filed, the result and the date of the court's decision _____

(e) Did you receive an evidentiary hearing on your motion or petition? Yes ☐ No ☐

(f) Did you appeal from the denial of your motion or petition? Yes ☐ No ☐

(g) If your answer to (f) is "Yes", state whether this issue was raised in the appeal, Yes ☐ No ☐, and state the name and location of the court where the appeal was filed, the case number and the date of the court's decision (or attach a copy of the court's opinion or order) _____

(h) If your answer to questions (e), (f) or (g) is "No", briefly explain _____

Other Remedies

(i) Describe all other procedures (such as habeas

corpus in the state supreme court, administrative remedies, etc.) you have used to exhaust your state remedies as to the issue _____

17) Have all grounds for relief raised in this petition been presented to the highest state court having jurisdiction? Yes ☐ No ☐

18) If you answered "No" to question 17, state which grounds have not been so presented and briefly give your reason(s) for not presenting them _____

19) If any of the grounds listed in 16 A, B and C, were not previously presented in any other court, state or federal, state *briefly* what grounds were not so presented, and give your reasons for not presenting them _____

20) Have you previously filed any type of petition, application or motion in a federal court regarding the conviction under attack? Yes ☐ No ☐. If "Yes", state the location of the court, the type of proceeding, the issues raised, the result and the date of the court's decision for each petition, application or motion filed _____

21) Do you have any petition, application, motion or appeal now pending in any court, either state or federal, regarding the conviction under attack? Yes ☐ No ☐. If "Yes", state the name of the court, case file number (if known), and the nature of the proceeding _____

22) Give the name and address, if known, of each attorney who represented you in the following stages of the judgment attacked herein:

(a) At preliminary hearing _____

(b) At arraignment and plea _____

(c) At trial _____

(d) At sentencing _____

(e) On appeal _____

(f) In any post-conviction proceeding _____

(g) On appeal from any adverse ruling in a post-conviction proceeding _____

23) Were you sentenced on more than one count of an indictment, or on more than one indictment, in the same court and at the same time? Yes ☐ No ☐

24) Do you have any future sentence to serve after you complete the sentence imposed by the judgment under attack? Yes ☐
No ☐

(a) If so, give name and location of court which imposed sentence to be served in the future _____

(b) And give date and length of service to be served in the future _____

(c) Have you filed, or do you contemplate filing, any petition attacking the judgment which imposed the sentence to be served in the future? Yes ☐ No ☐

Wherefore, petitioner prays that the court grant him such relief to which he may be entitled in this proceeding.

Signature of Attorney (if any)

Signature of Petitioner

(Attorney's full address and
telephone number)

DECLARATION UNDER PENALTY OF PERJURY

The undersigned declares (or certifies, verifies, or states) under penalty of perjury that he is the petitioner in the above action, that he has read the above pleading and that the information contained therein is true and correct. 28 U.S.C. § 1746. 18 U.S.C. § 1621.

Executed at _____ on _____,
198__ (Location) (Date)

Signature